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UNITED STATES FEDERAL COURT
DISTRICT OF NEVADA

MARK EDWARDS DAVIS, LLC and DREAM
CONNECTIONS INTERNATIONAL, INC.,

Plaintiffs,

vs.

ENGAGE ENTERPRISES, LLC, and OLEG
VYDRA;

Defendants.

Case No.: 2:17-CV-01876-JAD-VCF

**Amended Order Granting
Plaintiff's Amended Motion for
Default Judgment**

ECF No. 23

THIS MATTER comes before the Court on Plaintiffs Mark Edward Davis, LLC and Dream Connections International Inc.'s Amended Motion for Default Judgment, ECF [23], hearing held on April 8, 2019

I. Background

On July 7, 2017 Plaintiffs filed their Verified Complaint and Petition for Injunctive Relief against Defendants. (ECF No. 1). Service of the Complaint was completed, as detailed in the Proof of Service filed September 19, 2017. (ECF No. 19). Despite being served with summonses and copies of the Complaint, neither defendant has responded to the Complaint or otherwise appeared in this case.

Plaintiffs filed a Motion for Preliminary Injunction. (ECF No. 6) On July 26, 2017. On August 16, 2017, this Court granted Plaintiffs' Motion for Preliminary Injunction. (ECF No. 11). This Court issued an Order Granting Plaintiff's Motion for Preliminary Injunction on August 25, 2017. (ECF No. 15). The Clerk of the Court entered default on September 20, 2017 (ECF No. 20).

1 Plaintiffs thereafter moved for default judgement on March, 14, 2014 (ECF no. 21), which this
2 Court denied without prejudice on September 18, 2018 (ECF. No. 21). Plaintiffs thereafter filed
3 their Amended Motion for Default Judgment on December 3, 2018.

4 Plaintiffs allege breach of contract and copyright infringement related to Defendants'
5 appropriation of Plaintiff's intellectual property for use in a competitive enterprise in violation of
6 clickwrap agreement associated with Plaintiffs' internet-based match-making service. Plaintiff
7 claims statutory damages pursuant to 17 U.S.C § 504(c) in the amount of \$30,000.00 and
8 permanent extension of the previously granted Preliminary Injunction.

9 **II. Legal Standard for Entry of Default Judgment**

10 Federal Rule of Civil Procedure 55(b)(2) permits the Court, following a defendant's
11 default, to enter a final judgment in a case. This Court may find entry of default judgment
12 appropriate in consideration of (1) the possibility of prejudice to the plaintiff; (2) the merits of the
13 plaintiff's substantive claims; (3) the sufficiency of the complaint; (4) the sum of money at stake
14 in the action; (5) the possibility of a dispute concerning material facts; (6) whether the default was
15 due to the excusable neglect; and (7) the strong public policy favoring decisions on the merits.
16 *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986).

17 Having considered the *McCool* factors as applied to the present case, the Court finds that
18 factors 1-6 weigh heavily in favor of granting Plaintiffs' present motion, while the strong public
19 policy in favor of deciding cases on their merits, weighs in opposition to granting Plaintiffs' motion
20 it is heavily outweighed by factors 1-6.

21 **III. Conclusion**

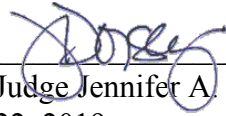
22 Accordingly, IT IS HEREBY ORDERED that Plaintiffs' Amended Motion for Default
23 Judgment (ECF no. 23) is **Granted**.

24 IT IS FURTHER ORDERED that the previously granted Preliminary Injunction (ECF no.
25 15) is hereby permanently extended and the Court RESTRAINS AND ENJOINS Defendants, their
26 agents, servants, employees, attorney, and all others in active concert or participation with
27 Defendants, from using or simulating Plaintiffs' proprietary systems, programs, tours, itineraries,
28 or trade names without Plaintiffs' express authorization, from publishing any materials, webpages,

1 promotional videos or tour events which incorporate or simulate Plaintiffs' proprietary systems,
2 programs or trade names or maintaining the same.

3 IT IS FURTHER ORDERED that the Clerk of the Court enter **JUDGMENT** for Plaintiffs
4 and against Defendants in the amount of \$30,000.00 and CLOSE THIS CASE.

5 IT IS FURTHER ORDERED that the Clerk of the Court is directed to REFUND the
6 \$500.00 cash deposit [ECF No. 14] to The Law Firm of Shumway Van for the benefit of Mark
7 Edwards Davis, LLC. , along with any accrued interest.

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U.S. District Judge Jennifer A. Dorsey
Dated: April 22, 2019

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11 *Respectfully submitted by*

12 SHUMWAY VAN

13
14 /s/ Karl A. Shelton, Esq.
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